

## RESOLUTION NO. A-\_\_\_\_\_

## USE PERMIT NO. 150B

1 WHEREAS, Eiger Corp. has submitted an application in accordance with  
2 Section 27.37.070 of the Lincoln Municipal Code designated as Use Permit No. 150B  
3 for authority to waive the maximum allowed building height in the B-5 Planned Regional  
4 Business District from 40 feet to 60 feet in the Appian Way, Phase II, commercial and  
5 retail development generally located at South 87th Street and Highway 2 and legally  
6 described to wit:

7 A tract of land composed of all of Lots 83, 114 and 115,  
8 Irregular Tracts, located in the Southwest Quarter of Section  
9 23, a part of Outlot A, Appian Way Regional Center Phase 2  
10 Addition, all of Outlot B, Appian Way Regional Center Phase  
11 2 Addition, a part of Outlot C, Appian Way Regional Center  
12 Phase 2 Addition, all of Outlots E, F, G and H, Appian Way  
13 Regional Center Phase 2 Addition, located in the Southwest  
14 Quarter of Section 23, all of Lot 81, Irregular Tract, located  
15 in the Northwest Quarter of Section 23, a part of the  
16 Southwest Quarter of the Northwest Quarter of Section 23, a  
17 part of the Northwest Quarter of the Southwest Quarter of  
18 Section 23 and a part of the Southeast Quarter of the  
19 Northeast Quarter of Section 22, all in Township 9 North,  
20 Range 7 East of the Sixth Principal Meridian, Lancaster  
21 County, Nebraska, described as follows:

22 Referring to the southwest corner of said Northwest Quarter  
23 Section 23; thence S 89°52'54" E, assumed bearing, along  
24 the south line of said Northwest Quarter Section a distance  
25 of 8.32 feet to the future easterly right-of-way line of South  
26 84th Street and the point of beginning, said point also being  
27 the point of curvature of a 585.00 foot radius curve, concave  
28 to the west; thence northwesterly along said future easterly  
29 right-of-way line and said curve, through a central angle of  
30 5°19'51" an arc distance of 54.43 feet, the chord of said  
31 curve bears N 29°31'49" W, a distance of 54.41 feet; thence  
32 N 32°11'45" W along said future easterly right-of-way line, a

distance of 136.19 feet to the point of curvature of a 465.00 foot radius curve, concave to the east; thence northerly along said future easterly right-of-way line and said curve, through a central angle of 04°50'15" an arc distance of 39.26 feet, the chord of said curve bears N 29°46'38" W, a distance of 39.25 feet; thence N 62°38'30" E along said future easterly right-of-way line, a distance of 5.00 feet to a point on a 460.00 foot radius curve, concave to the east; thence northerly along said future easterly right-of-way line and said curve, through a central angle of 56°22'59" an arc distance of 452.67 feet, the chord of said curve bears N 00°49'59" E, a distance of 434.63 feet; thence N 29°01'29" E along said future easterly right-of-way line, a distance of 39.29 feet to the intersection with the future southerly Nebraska Highway No. 2 right-of-way line; thence S 58°04'03" E along said future southerly right-of-way line, a distance of 125.63 feet to an intersection of the existing southerly right-of-way line of Nebraska Highway No. 2 and the easterly existing South 84th Street right-of-way line; thence S 74°45'16" E along said southerly right-of-way line, a distance of 74.68 feet; thence S 48°10'50" E along said southerly right-of-way line, a distance of 301.81 feet; thence S 54°27'15" E along said southerly right-of-way line, a distance of 400.00 feet; thence S 58°59'08" E along said southerly right-of-way line, a distance of 290.85 feet to the north line of the Southwest Quarter of said Section; thence S 54°27'18" E along said southerly right-of-way line, a distance of 1615.21 feet; thence S 51°36'51" E along said southerly right-of-way line, a distance of 43.11 feet; thence S 35°32'47" W, a distance of 346.74 feet; thence S 56°35'33" W, a distance of 36.02 feet to the point of curvature of a 369.50 foot radius curve, concave to the southwest; thence northwesterly along said curve, through a central angle of 21°15'29" an arc distance of 137.09 feet, the chord of said curve bears N 46°26'38" W, a distance of 136.31 feet; thence N 57°04'22" W, a distance of 349.77 feet; thence S 54°44'21" W, a distance of 284.85 feet to the point of curvature of a 1544.43 foot radius curve, concave to the south; thence southeasterly along said curve, through a central angle of 08°29'28" an arc distance of 228.88 feet, the chord of said curve bears S 49°41'49" E, a distance of 228.67 feet to a point on the southerly line of an existing Lincoln Electric System transmission line easement recorded as Instrument Number 95-12607 at the Lancaster County Register of Deeds; thence S 89°01'14" W along said

easement line, a distance of 10.53 feet; thence S 59°00'27"  
E a distance of 22.10 feet to a point on the south line of the  
north half of the Southwest Quarter Section 23; thence N  
89°58'00" E along said Quarter Section line, a distance of  
67.89 feet; thence S 00°02'00" E a distance of 146.74 feet to  
the northerly right-of-way line of the Omaha Public Power  
District's railroad line and the point of curvature of a 1494.43  
foot radius curve, concave to the south; thence  
northwesterly along said northerly right-of-way line and said  
curve, through a central angle of 55°34'19" an arc distance  
of 1449.47 feet, the chord of said curve bears N 66°52'50"  
W, a distance of 1393.32 feet; thence S 85°20'00" W along  
said northerly right-of-way line, a distance of 303.52 feet to  
the existing easterly right-of-way line of 84th Street, said  
point located 70.00 feet easterly of, perpendicular  
measurement, the west line of said Southwest Quarter  
Section 23; thence N 00°52'06" E along said existing  
easterly right-of-way line, a distance of 167.34 feet to a  
corner of said easterly right-of-way line; thence N 02°10'26"  
E along said easterly right-of-way line, a distance of 60.05  
feet; thence N 01°25'12" E along said easterly right-of-way  
line, a distance of 427.70 feet to the point of curvature of a  
585.00 foot radius curve concave to the west; thence  
northerly along said easterly right-of-way line and said curve,  
through a central angle of 08°25'33" an arc distance of 86.03  
feet, the chord of said curve bears N 02°47'39" W, a  
distance of 85.95 feet to a corner of said Lot 115; thence  
continuing northerly along the future easterly right-of-way  
line and said curve, through a central angle of 19°51'29" an  
arc distance of 202.75 feet, the chord of said curve bears N  
16°56'10" W, a distance of 201.74 feet to the south line of  
said Northwest Quarter Section and the point of beginning,  
containing an area of 1,953,951.67 square feet (44.86  
acres) more or less;

WHEREAS, the real property adjacent to the area included within the site  
plan for this use permit for the development of commercial and retail area will not be  
adversely affected; and

WHEREAS, said site plan together with the terms and conditions  
hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln  
Municipal Code to promote the public health, safety, and general welfare.

1                   NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
2 Lincoln, Nebraska:

3                   That the application of Eiger Corp., hereinafter referred to as "Permittee",  
4 to waive the maximum allowed building height in the B-5 Planned Regional Business  
5 District from 40 feet to 60 feet in the Appian Way, Phase II, commercial and retail  
6 development, on the property legally described above be and the same is hereby  
7 granted under the provisions of Section 26.31.015 and Section 27.37.070 of the Lincoln  
8 Municipal Code upon condition that construction and operation of said commercial and  
9 retail space be in strict compliance with said application, the site plan, and the following  
10 additional express terms, conditions, and requirements:

11                   1.       This permit approves an adjustment to the maximum height in the  
12 B-5 Planned Regional Business District from 40 feet to 60 feet on Lots 1, 2, and 3,  
13 Block 3.

14                   2.       Before receiving building permits:

- 15                   a.       The Permittee must submit an acceptable revised and  
16                               reproducible final plan with six copies.
- 17                   b.       The construction plans must conform to the approved plans.
- 18                   c.       Final plats within the area of this use permit must be  
19                               approved by the Planning Director consistent with the  
20                               approved use permit.

21                   3.       Before occupying the buildings, all development and construction  
22 must be completed in conformance with the approved plans.

1                   4.     All privately-owned improvements must be permanently maintained  
2 by the Permittee or an appropriately established association approved by the City  
3 Attorney.

4                   5.     The site plan approved by this permit shall be the basis for all  
5 interpretations of setbacks, yards, locations of buildings, location of parking and  
6 circulation elements, and similar matters.

7                   6.     The terms, conditions, and requirements of this resolution shall be  
8 binding and obligatory upon the Permittee, its successors and assigns. The building  
9 official shall report violations to the City Council which may revoke this use permit or  
10 take such other action as may be necessary to gain compliance.

11                  7.     The Permittee shall sign and return the City's letter of acceptance  
12 to the City Clerk within 30 days following approval of this use permit, provided, however,  
13 said 30-day period may be extended up to six months by administrative amendment.  
14 The City Clerk shall file a copy of the resolution approving this use permit and the letter  
15 of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by  
16 the Permittee.

17                  8.     The site plan as approved by this resolution voids and supersedes  
18 all previously approved site plans, however, all resolutions approving previous permits  
19 remain in force unless specifically amended by this resolution.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2004:

\_\_\_\_\_  
Mayor